

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AMARE B. KASSA,

Plaintiff(s),

v.

SELLAND AUTO TRANSPORT,

Defendant(s).

NO. C05-1304P

ORDER ON DEFENDANT'S  
APPLICATION TO TAX COSTS

The above-entitled Court, having received and reviewed:

1. Notice of Application to Tax Costs in Favor of Defendant Selland Auto Transport, Inc., Bill of Costs, and Verification
2. Plaintiff's Objection to Defendant's Motion for Costs
3. Declaration of James R. Dickens (10/20/06) re: Cost Bill

and all exhibits and declarations attached thereto, makes the following ruling:

IT IS HEREBY ORDERED that Defendant's Application to Tax Costs is APPROVED and costs are awarded in the amount of \$2,702.10 in favor of Defendant and against Plaintiff.

**Discussion**

Plaintiff filed suit in federal court on July 22, 2005, alleging violations of federal and state law in connection with his brief stint as a trainee/employee with Defendant's auto transport business. By summary judgment dated August 31, 2006 (Dkt. No. 30), this Court dismissed Plaintiff's federal §1981 claim, as well as his causes of action for violations of the Washington Law Against Discrimination (RCW § 49.60) and the state law prohibiting wrongful discharge in violation of public policy (RCW §§ 49.17 and 51.48.025). Plaintiff's state law claim of hostile work environment was permitted to remain.

1 Defendant then moved for dismissal of the lone remaining state law claim on the ground that  
2 no federal jurisdiction remained; that motion was granted on October 11, 2006 (Dkt. No. 41), based  
3 on the Court's decision not to exercise supplemental jurisdiction over the single state law claim. On  
4 that same date, judgment was entered in favor of defendant (Dkt. No. 42). Defendant has now applied  
5 for costs to be taxed against Plaintiff pursuant to 28 U.S.C. § 1920(2), LR 54(d) and LR7(d)(2)(F).

6 The dismissal of Plaintiff's remaining state law claim was made without prejudice, to permit  
7 Plaintiff the option of pursuing the claim in state court if he so chose. Plaintiff has opposed the  
8 application to tax costs based on his understanding that "Defendant is not to seek costs if the case is to  
9 be remanded to State courts." Pltfs Objections, p. 2. It is Plaintiff's understanding that  
10 representations were made at the pretrial conference in this matter to the effect that, if the state law  
11 cause of action were dismissed here and Plaintiff had to pursue it in state court, costs would not be  
12 sought or assessed for the federal proceedings.

13 This is not the Court's recollection of the pretrial conference discussion. As defense counsel  
14 indicated to Plaintiff's attorney in an e-mail following the pretrial conference, if Plaintiff chose to  
15 "dismiss[] his remaining hostile work environment claim voluntarily and that ends the case, then  
16 Selland Auto will not pursue an award of costs against Mr. Kassa. . ." Decl. of Dickens, Exh. 1.  
17 This comports with the Court's understanding of the discussion. Plaintiff opted instead to oppose the  
18 motion to dismiss the hostile work environment claim and the Court ruled in Defendant's favor.

19 Both equity and the law favor the grant of costs to Defendant in this matter. Had Plaintiff  
20 originally filed this action in state court and then been removed by Defendant to this forum, Plaintiff  
21 would have had a stronger argument that assessment of costs here would be unfair. But Plaintiff  
22 chose to file his action in federal court, and the forum rules are clear: the party in whose favor  
23 judgment is rendered is entitled to request an award of costs. LR 54(d). Defendant has requested  
24 only the costs of deposing the witnesses interviewed in preparation for their summary judgment  
25

1 motion, and the nominal costs of printing the motion, as the law permits them to do. 28 U.S.C. §  
2 1920(2). Finally, defense counsel made it clear that Plaintiff could avoid this application for costs by  
3 agreeing to dismiss his remaining state law claim, and Plaintiff chose not to do so.

4 **Conclusion**

5 Defendant's Application to Tax Costs is approved and costs are awarded in the amount of  
6 \$2,702.10 in favor of Defendant and against Plaintiff.

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8 The clerk is directed to provide copies of this order to all counsel of record.

9 Dated: October \_30\_, 2006

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12 Marsha J. Pechman  
13 U.S. District Judge  
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